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Legal Report

SWAN Legal Services Initiative

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SUPREME COURT OF PENNSYLVANIA

In the Interest of: E.D.A., III, --- A.3d ---- (2025) (York)

An Order was issued by the Supreme Court dismissing the appeal, stating that it was improvidently granted.

Justice Donohue filed a dissenting opinion and identified the issue as whether clear and convincing evidence exists to support a termination of parental rights where the decision was based on the testimony of one witness without acknowledging the contrary testimony of several other witnesses. Justice Donohue opines that the trial court failed to support its determination with clear and convincing evidence, which is an error of law.

In the Interest of R.B., ---A.3d --- (2025) (Philadelphia)

The Supreme Court issued an order reversing the Superior Court's determination regarding the admissibility of educational records in a truancy matter. For more information regarding the facts of this case, please see our September 2024 Legal Report.

Glover v. Junior, 9 EAP 2024 (Philadelphia)

The Supreme Court adopted a new pathway to parentage, identified as intent-based parentage when assessing a case of a married same-sex couple who conceived a child using a sperm donor and assistive reproductive technology (ART) but did not have a contract between the parties and subsequently separated before the child was born.

The parties got married in 2021 and, a month after marriage, reached out to a fertility clinic to get information about what options existed to start a family. They decided to pursue in vitro fertilization (IVF) and entered into a contract with Fairfax Cryobank for donated sperm. The contract listed Glover as the "intended parent" and Junior as the "co-intended parent."

In August of 2021, the child was conceived through IVF utilizing Glover's egg and donor sperm from Fairfax Cryobank. Junior participated in the process as a support for Glover, attending all the necessary appointments.

In November of 2021, the couple retained a law firm in anticipation of facilitating a step-parent adoption. However, the relationship deteriorated and in March of 2022 Glover relayed her decision not to pursue the step-parent adoption. A divorce complaint was filed by Glover in April of 2022.

In response, Junior filed a petition for special relief for pre-birth establishment of parentage and an emergency petition requesting the same. Junior requested an order confirming that Junior is a legal parent, that Glover notify Junior when she goes into labor, that Junior be given access to the child after birth, and that Junior's name would appear on the birth certificate. The trial court held an evidentiary hearing and granted Junior's requests, finding that she is a legal parent pursuant to the law of contracts. It is from that order that Glover appealed.

The Superior Court reversed the trial court's decision holding that parentage was not established by contract. The Court reviewed the contracts and opined that none of the contracts confer parental rights on Junior or identify her as a legal parent. Junior filed an application for re-argument *en banc*. The panel affirmed the trial court's decision and opined that the presumption of parentage was inapplicable to these facts, but in reviewing pertinent case law, the panel reinforced its prior holding that an oral contract for sperm donation is enforceable in

Pennsylvania. Such contracts do not violate public policy. It is from that order that Glover appealed.

One of the questions presented to the Supreme Court is whether the doctrine of “intent-based” parentage should be adopted in Pennsylvania in the context of a child conceived through ART. The Supreme Court began its analysis by identifying the four existing pathways to parentage: biology, adoption, equity (the presumption or estoppel) and contract. In its analysis, the Court declined to adopt the reasoning of the lower courts with respect to the existence of a contract or equity to establish parentage in this case. Rather, the Court adopted the doctrine of intent-based parentage. This new path to parentage in ART cases furthers the public policies of stability, support, love, and care that the existing pathways also support.

The Court opined “having demonstrated that intent drives the analysis when applying our existing parentage doctrines, and that intent-based parentage accords with public policy, we hold that parentage may be established by proof of intent shared by two parties to use ART to conceive and co-parent a child together, even without meeting all the formalities of contract law.”

SUPERIOR COURT OF PENNSYLVANIA

Washington County Children and Youth Services OBO H.B, Minor Child v. Gallagher, No. 1030 WDA 2024 (Washington)

Superior Court held that the agency was not a party that could commence a PFA proceeding and reversed the trial court’s order to the contrary.

The agency filed a PFA on behalf of the minor child, who was less than a year old, after Mr. Gallagher stated that he would stab the child in the neck. The child’s guardian ad litem in the underlying dependency proceeding attended all of the hearings and testified that the agency filed the PFA because the agency had legal custody of the child. Mr. Gallagher’s counsel moved to dismiss the PFA due to lack of standing. The trial court denied the motion and entered a three-year PFA. It is from that order that Mr. Gallagher appealed.

The PFA Act allows “any parent, adult household member or guardian ad litem” to pursue a PFA on behalf of a minor child. The Superior Court identified that the agency does not meet these definitions and therefore could not meet the threshold requirement for standing.

In the Interest of: J.R., No. 1507 EDA 2024 (Philadelphia)

Superior Court reversed an order dismissing a dependency petition and remanded the matter for further proceedings.

DHS received a report that Mother was having a mental health crisis, stating that the children were not human and did not deserve to be on the planet. The report also claimed a history of physical abuse. When DHS interviewed Mother, she explained that she is prescribed medication but does not take it. During the course of the interview, Mother became extremely unfocused and incoherent. Mother lunged at the worker, causing the worker to call 911 and vacate the

home. The child was removed from Mother's care and placed with maternal grandmother. After locating Father, the child was placed in his care.

DHS filed a dependency petition containing the allegations regarding Mother's unstable mental health and that Father pled guilty to drug charges in 2014/2015. At the adjudicatory hearing, the child appeared to have scratches on her face and was removed from Father. An amended petition was filed to include that DHS was investigating the cause of child's injuries while in Father's care.

The adjudicatory hearing, originally scheduled in February 2024, was continued and eventually held in May 2024. At that time, the agency indicated it did not have evidence to prove a dependency ground as to Father. The investigation revealed that the child had been playing and had fallen. The court found Father to be ready, willing, and able; however, he expressed a desire for the child to be returned to Mother. The Court ordered custody to Mother and dismissed the petition. It is from that order that DHS appealed.

No testimony was taken as to Mother's ability to care for the child, nor did the trial court assess issues related to Mother's untreated mental health. Further, DHS argued that the trial court did not focus on the initial removal from Mother. The Superior Court held that the trial court's reliance on custody factors in a dependency matter was an error. As a result, the matter was remanded.

Federal Update

The Administration for Children and Families (ACF) issued an interim final rule, effective March 25th, removing a provision that barred the Office of Refugee Resettlement (ORR) from sharing immigration status information about potential sponsors with law enforcement or disqualifying sponsors based solely on their status. The Department of Health and Human Services determined ORR lacked authority to issue the original rule and revoked it in the public interest. You can find the link to comment and review the interim final rule here:

[Federal Register : Unaccompanied Children Program Foundational Rule; Update To Accord With Statutory Requirements](#)